

U.S. Application Serial No. 09/599,355

REMARKS

The present response is responsive to the Official Action dated March 25, 2004, wherein the Examiner rejected pending claims 1-20, as being unpatentable over Pecen et al., US Patent No. 6,529,525, in view of one or more of Kronstedt et al., US Patent No. 6,310,866; Pecen et al., US Patent No. 6,282,182; and Wang et al., US Patent No. 6,526,033. However, the rejection has been inappropriately applied to the present application, in so far as Pecen et al., US Patent No. 6,529,525, the principal reference relied upon by the Examiner in support of the rejection, does not constitute an appropriate rejection upon which to base an obviousness type rejection under 35 U.S.C. §103(a), in view of the common ownership of the reference and the present application, as evidenced by the common assignment to Motorola, Inc.

More specifically, Pecen et al., US Patent No. 6,529,525, as indicated on the front page of the published patent, is assigned to Motorola, Inc. According to the PTO records, which are available through the USPTO web site, the assignment for the published patent is recorded at REEL/FRAME 011074/0806. The present application is similarly assigned to Motorola, Inc., the assignment for the present application is recorded at REEL/FRAME 010980/0469. Furthermore, because the cited reference, Pecen et al., '525, could only potentially qualify as prior art under one or more of subsections (e), (f), and (g) of section 102, 35 U.S.C. §103(c) precludes the reference from being used in support of a rejection under 35 U.S.C. §103(a). Each of the rejections raised by the Examiner relative to the claims relies upon Pecen et al., '525, as a basis for the rejection. Consequently, the Examiner has failed to allege a proper rejection.

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In absence of any properly presented and/or supported rejection of the claims, a rejection of the present application is inappropriate. In view of the above noted remarks, the applicants would respectfully request that the Examiner reconsider and reexamine the claims pending in the present application. Should any issues remain unresolved after the consideration of the present response, the Examiner is requested to contact the applicants' representative at the number listed below to discuss the same.

Respectfully submitted,

BY: Lawrence J. Chapa
Lawrence J. Chapa
Reg. No. 39,135
Phone (847) 523-0340
Fax. No. (847) 523-2350

Motorola, Inc.
Personal Communications Sector
Intellectual Property Department (LJC)
600 North US Highway 45, RM AS437
Libertyville, IL 60048